



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

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Order Instituting Investigation to Consider Policies to Achieve the Commission's Conservation Objectives for Class A Water Utilities.

I.07-01-022

Application of Golden State Water Company (U 133 E) for Authority to Implement Changes in Ratesetting Mechanisms and Reallocation of Rates.

A.06-09-006

Application of California Water Service Company (U 60 W), a California Corporation, requesting an order from the California Public Utilities Commission Authorizing Applicant to Establish a Water Revenue Balancing Account, a Conservation Memorandum Account, and Implement Increasing Block Rates.

A.06-10-026

Application of Park Water Company (U 314 W) for Authority to Implement a Water Revenue Adjustment Mechanism, Increasing Block Rate Design and a Conservation Memorandum Account.

A.06-11-009

Application of Suburban Water Systems (U 339 W) for Authorization to Implement a Low Income Assistance Program, an Increasing Block Rate Design, and a Water Revenue Adjustment Mechanism.

A.06-11-010

Application of San Jose Water Company (U 168 W) for an Order Approving its Proposal to Implement the Objectives of the Water Action Plan.

A.07-03-019

**OPENING COMMENTS OF THE UTILITY REFORM NETWORK, THE  
LATINO ISSUES FORUM, THE NATIONAL CONSUMER LAW CENTER AND  
THE DISABILITY RIGHTS ADVOCATES ON THE PROPOSED DECISION OF  
ADMINISTRATIVE LAW JUDGE GRAU**

Christine Mailloux, Staff Attorney  
Marcel Hawiger, Staff Attorney  
THE UTILITY REFORM NETWORK  
711 Van Ness Avenue, Suite 350  
San Francisco, CA 94102  
Telephone: (415) 929-8876, ext. 353  
E-mail: cmailloux@turn.org

Olivia Wein  
Charles Harak  
Staff Attorneys  
NATIONAL CONSUMER LAW CENTER  
1001 Connecticut Avenue, NW, Suite 510  
Washington, DC 20036-5528  
Telephone: (202) 452-6252, ext. 103  
Facsimile: (202) 463-9462  
E-mail: owein@nclcdc.org

Melissa W. Kasnitz, Managing Attorney  
DISABILITY RIGHTS ADVOCATES  
2001 Center Street, Third Floor  
Berkeley, California 94704-1204  
Telephone: (510) 665-8644  
Facsimile: 510/665-8511  
TTY: (510) 665-8716  
E-Mail: pucservice@dralegal.org

Enrique Gallardo, Staff Attorney  
LATINO ISSUES FORUM  
160 Pine Street, Suite 700  
San Francisco, CA 94111  
Phone: (415) 547-7550  
Facsimile: (415) 284-7222  
E-mail: enriqueg@lif.org

Dated: February 4, 2008

## **I. INTRODUCTION**

Pursuant to Rule 14.3, the Utility Reform Network, Latino Issues Forum, National Consumer Law Center and Disability Rights Advocates hereby file these Opening Comments on the Proposed Decision of Administrative Law Judge Grau in Phase 1A of the above referenced docket. Pursuant to approval granted by Administrative Law Judge Thorson on February 4, 2008, Joint Consumers are filing these comments one day late due to technical difficulties with the document.

Consumers focused their efforts mostly on issues affecting low income and limited English speaking customers of these water utilities. We took no position on many of the settlements approved in this Proposed Decision. However, as discussed below, the Proposed Decision errs when it adopts the Suburban/DRA Low Income Ratepayer Assistance Settlement without amendment. The record supports a total bill discount. Further the Proposed Decision fails to consider record evidence and support its conclusions to adopt the DRA/Park and DRA/CalWater rate design settlements without ordering concrete and enforceable customer education and outreach measures. Finally, the Proposed Decision improperly rejects the Joint Consumers' call for CalWater to submit certain arrearage, usage and disconnection data when it admits that "comparable" data among all of the utilities would benefit the Commission in its conservation and affordability goals. Joint Consumers discuss these errors below. Proposed revisions to the Finding of Facts, Conclusions of Law and Ordering Paragraphs are included in Attachment A to this pleading.

## **II. THE PROPOSED DECISION ERRS IN ADOPTING THE LOW INCOME RATE ASSISTANCE SETTLEMENT BY IGNORING STATUTORY MANDATES AND PUBLIC POLICY GOALS**

Joint Consumers challenged the method of calculating the low-income discount in the "Settlement Agreement Between the Division of Ratepayer Advocates and Suburban Water Systems on Low Income Ratepayer Assistance Program Issues" (Suburban LIRA Settlement). TURN submitted testimony with the support of the Joint Consumers showing that the Suburban LIRA Settlement violates the statutory goals of §739.8(b) and will harm larger low-income households.

The Proposed Decision appears to accept arguments made by DRA and Suburban as justification for rejecting the Joint Party proposal to calculate the low-income discount as a percentage reduction of the entire bill (a “bill discount”), rather than as a flat discount off the fixed service charge. Joint Consumers says “appears” because the PD only summarizes the positions of different parties and does not actually identify specific facts or laws on which it bases its conclusions. Finding of Fact No. 22 merely cites to the positions of Suburban and DRA that a bill discount would be contrary to the goals of the separate conservation rate design settlement.<sup>1</sup> The Proposed Decision simply disregards the factual and policy evidence provided by TURN’s witness Robert Finkelstein that disputes the position of the settling parties. The Proposed Decision thus violates both §1705 by not making specific findings on a material issue as well as §1757(a)(4) by ignoring the evidence on the record.

More importantly, the central argument advanced by Suburban and DRA – that a bill discount violates the purpose of the separate conservation rate settlement – is founded on factual and legal errors concerning the impact of a fixed service charge and the legal mandate of §739.8.

The Proposed Decision discusses the position of DRA and Suburban and accepts without further explanation their contention that “the dual goals of Pub. Util. Code § 739.8, considering rate relief to assist low-income customers and providing incentives and capabilities to achieve water conservation goals, were considered in proposing a flat rate discount.”<sup>2</sup> The Proposed Decision then seems to agree with DRA and Suburban’s position, as it states:

DRA and Suburban negotiated the LIRA and conservation rate design settlements at the same time, factoring low-income households’ needs into both agreements. *Therefore, Suburban and DRA’s LIRA proposal cannot be assessed independent of the adopted conservation rate design.* Regardless of the merits of the flat and percentage discounts, and each has merits, the Suburban and DRA LIRA was set in conjunction with a conservation rate design that would achieve greater savings at the first tier breakpoint, average consumption, than at higher usage levels. A percentage total bill discount potentially would blunt the pricing signals associated with that rate design.<sup>3</sup>

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<sup>1</sup> FOF 23 states that “Phase 2 will consider the impact of conservation rate designs on LIRAs and higher discounts on service charges for larger households.” The Commission should not simply defer a material issue which has been completely litigated in this case to a later phase and let an inconsistent settlement stand.

<sup>2</sup> Proposed Decision at p. 31.

<sup>3</sup> Proposed Decision at p. 32-33 (emphasis added).

Thus the Proposed Decision would perpetuate the confusion sown by the Settlements, inappropriately pitting the discrete purposes of conservation rates versus low-income programs. In their Motion for adoption of the Settlements, DRA and Suburban stated that they “adjusted the usage break points [between the two tiers in the inclining block rate design] by meter size because of concerns about the impact on low-income residents.”<sup>4</sup> This problem arose because “multiple unit residential buildings” may only have one “larger” meter. The parties then provided an “explanation” why they chose not to decrease the fixed service charge:

DRA and Suburban also chose not to change the service charge authorized in D.06-08-017 because of concerns about the impact on low-income customers. If the service charge were decreased, the fixed costs covered in that charge would have to be shifted to the quantity charge. Within its service areas Suburban has several communities with low-income residents and a high number of residents per household. Although these customers may make efforts to conserve, their water use is going to be higher just based on the number of people living in each house. This would mean an increase for these customers above and beyond the effect of changes in the rate structure to introduce increasing block rates. Additionally, given Suburban’s concurrent proposal for a low income program, meter charges are effectively reduced for customers who are certified as low-income. Consequently, DRA and Suburban came to the conclusion that it would be inappropriate to allocate a greater amount of fixed costs from the service charge to the quantity charge.<sup>5</sup>

This explanation is a Kafkaesque attempt to rationalize why one bad decision justifies another worse one, as if the two negatives could cancel out.

The settling parties admit that decreasing the service charge promotes conservation by charging more per unit to high water users.<sup>6</sup> But rather than taking the rational and logical step – reducing service charges for all customers – the parties claim that increasing the bills of high users was rejected because it could hurt “low-income residents with a high number of residents per household.” The settling parties then argue that because they chose *not to decrease* service charges for all customers, it makes sense to base the low income rate assistance program on

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<sup>4</sup> “Motion of the Division of Ratepayer Advocates and Suburban Water Systems to Approve Settlement Agreements,” April 24, 2007, p. 5-6.

<sup>5</sup> *Id.*, p. 6.

<sup>6</sup> This point is undisputed and is the basis for promoting variable pricing for conservation.

another bad method - reducing only the service charge for low-income customers<sup>7</sup> rather than giving a reduction of the total bill.

This combination of bad choices and spurious arguments ignores the undisputed factual reality that the really high water users are those who use a high amount of water for summer lawn irrigation. These are more likely to be higher income residents with large lawns.<sup>8</sup> This is precisely why the Suburban rate design Settlement determines the break point of the two tiers (for any meter size) based on “the mid point between average monthly (annual) consumption and *average summer consumption*.”<sup>9</sup> It is bad policy to ignore the primary means of impacting this high summer water use – by decreasing the fixed service charge. The fact that such bad policy is presented as part of a settlement does not warrant its adoption, but rather modification of the settlement.

Setting the higher tier charge above the average summer consumption already protects most low-income households. However, it is entirely possible that households with higher than average number of residents may be impacted by the higher tier. These are the households that are also likely to be lower income.<sup>10</sup> The most equitable way to help these large household/low income customers is to provide a reduction of the entire bill as part of the low income rate assistance program.

From a policy perspective, the Proposed Decision errs by adopting the settling parties’ argument that erroneously confuses the two entirely separate “programs” for low-income customers addressed in A.B. 2815, codified in §739.8. The purposes of the separate subsection (b) and (c) of this statute are not the same. Subsection 739.8(b) authorizes the Commission to implement “programs to provide rate relief to low-income ratepayers,” while subsection 739.8(c) authorizes the Commission to implement “programs to assist low-income ratepayers in order to provide appropriate incentives and capabilities to achieve water conservation goals.” The statute explicitly identifies these as two separate types of programs.

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<sup>7</sup> The fixed discount of \$6.50 is exactly analogous to reducing the service charge by \$6.50 only for qualifying low-income customers.

<sup>8</sup> Testimony of Robert Finkelstein Addressing Suburban’s Proposed Low Income Program, July, 20, 2007 at p. 9.

<sup>9</sup> “Settlement Agreement Between the Division of Ratepayer Advocates and Suburban Water Systems on WRAM and Conservation Rate Design Issues,” Included as Appendix A to Motion, Section 4.3, p. 4 (emphasis added).

<sup>10</sup> *Id.* at p. 6, See also, RT at 69-70 (Kelley).

The LIRA program is a rate reduction program, analogous to the CARE program sponsored by energy utilities, that fulfills the §739.8(b) goal of providing “rate relief to low-income ratepayers.” On the energy side, utilities sponsor specific energy efficiency programs for low-income qualifying customers, separate from rate designs or energy efficiency programs that apply to all customers equally. These low-income energy efficiency programs are targeted to provide low-income customers with “incentives and capabilities” – i.e. subsidized installation of conservation equipment – to conserve energy.

The rate design Settlement submitted by Suburban provides all customers some financial incentive to conserve water through tiered rates. It is by no means the type of “program” for low-income customers to provide “incentives and capabilities” to conserve water envisioned in §739.8(c).

Clearly, the low-income “rate assistance” program should function in a manner that does not thwart conservation measures. However, as discussed in the testimony of TURN witness Robert Finkelstein, it is equally important that the “rate relief” objectives of the low-income assistance program not be thwarted by an argument that such a program does not *further* the goal of conservation.<sup>11</sup> Rate relief, rather than conservation, is the program’s objective.

The Proposed Decision makes clear that for a limited range of water usage (20 versus 30 ccf), the difference between a flat discount and a bill percentage discount is not huge.<sup>12</sup> However, there are likely to be larger differences for some households – i.e. very large low-income households. The Commission must balance two policy objectives – providing rate relief to low-income customers versus encouraging conservation. Mr. Finkelstein’s testimony discussed how water usage –more so than electricity or natural gas usage – is highly linked to household size.<sup>13</sup> Thus, there is an even more critical need to protect large households against increases in water bills.

As explained by Mr. Finkelstein, the logical course most consistent with both objectives of §739.8(b) and (c) would appropriately prioritize conservation objectives in the rate design and low-income assistance objectives in the low-income program:

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<sup>11</sup> Testimony of Robert Finkelstein at p. 8.

<sup>12</sup> Proposed Decision at p. 31.

<sup>13</sup> Testimony of Robert Finkelstein at p. 9; See also, RT 73 (Kelley).

If the utility wants to ensure conservation effects through a lower service charge, it should reduce the service charge for all customers and increase the volumetric charge. It makes little sense to try to promote this “conservation signal” by only targeting low-income customers. This not only confuses the goals of the different programs, for many customers eligible for low-income assistance it actually undermines the purpose of the LIRA program to promote bill affordability.<sup>14</sup>

The Proposed Decision fails to consider, much less address, these critical facts. The Proposed Decision never grapples with the fundamental issue that a bill discount better protects large-sized low-income households. The Proposed Decision fails to separately consider the legislative goal of Section 739.8(b) in its consideration of the low-income ratepayer assistance program.

The Commission should not turn a blind eye to the reality that large households use more water, and that the policy objectives of conservation and low-income assistance are better balanced by sending the proper conservation signal – lower service charges – to all customers and by discounting the entire bill by a fixed percentage for all eligible low-income customers.

### **III. THE PROPOSED DECISION DOES NOT ADEQUATELY JUSTIFY ITS REFUSAL TO ADOPT SUFFICIENT CUSTOMER EDUCATION AND OUTREACH MEASURES FOR CALWATER AND PARK**

The Proposed Decision approves a Settlement between Suburban and Joint Consumers that requires Suburban to undertake specific consumer notification and education measures to ensure their customers understand the impact and rationale behind the introduction of tier rates.<sup>15</sup> Despite good faith efforts from all involved parties, Joint Consumers could not reach similar settlements with Park and CalWater. Despite urging by Joint Consumers and Consumer Federation of California to apply the simple and tailored outreach efforts in the Suburban Settlement to Park and CalWater, the Proposed Decision instead relies on vague promises and high level descriptions of proposed programs.<sup>16</sup> Rejected measures of specific concern include: public notification for Spanish-speaking customers in the form of a newspaper advertisement or home-delivered flyers targeted to Spanish-speaking populations (for both CalWater and Park), an

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<sup>14</sup> *Id.* at p. 8.

<sup>15</sup> Proposed Decision at p. 35-36.

<sup>16</sup> Proposed Decision at p.37-38.

immediate means for Spanish-speaking customers to call and seek information from CalWater and more specificity in both utilities' outreach to community-based organizations.

The Proposed Decision acknowledges the importance of consumer education and outreach in this docket. In approving Suburban's Settlement, it states that the Joint Consumer/Suburban Settlement, "promotes conservation and advises customers of the benefits of conservation and the impacts of their bill in light of the conservation rates."<sup>17</sup> The Proposed Decision acknowledges that education is crucial to the success of the conservation rates because if customers believe their rates are going up they will oppose conservation programs. In order for conservation rates to achieve their proposed benefits, customers will need to understand the new rates and the benefits and means of conserving water. There is also the danger of customer confusion and frustration with the new rates and of significant rate increases for customers who do not adapt to the new rates. Indeed, the Proposed Decision admits that a "number of customers," in particular CalWater customers, have contacted the Commission to express concerns and confusion about the impact of tiered rates and it suggested that both Park and CalWater conduct additional consumer outreach.<sup>18</sup> Yet, despite acknowledging the importance of consumer education and outreach, *the Proposed Decision fails to make a single Finding of Fact or Conclusion of Law regarding consumer education efforts by Park and CalWater.* The Proposed Decision accepts mere promises from Park and CalWater that they will implement meaningful education programs, but fails to put in place any enforceable and concrete requirements for outreach.

CalWater's high level assurances to develop a consumer education initiative can only be found in the Joint Motion with DRA and TURN covering their amended rate design Settlement.<sup>19</sup> The Settlement itself does not address consumer education and outreach at all. Joint Consumers are unaware of any Memorandum of Understanding between DRA and CalWater covering consumer education.

Park, on the other hand, does make a commitment to implement some consumer education and outreach measures in its Settlement agreement with DRA, but it does not go far

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<sup>17</sup> Proposed Decision at p. 36.

<sup>18</sup> Proposed Decision at p. 35-36.

<sup>19</sup> Motion of TURN et al. to Approve Amended Settlement Agreement, June 15, 2007 at p. 16.



enough.<sup>20</sup> Again, Joint Consumers are unaware of a more detailed Memorandum of Understanding with DRA, as referenced in their Settlement.

In addition, both utilities express support and willingness in their testimony and comments to implement some of the Joint Consumer proposals for education and outreach, but opposed creating a mandate to do so.<sup>21</sup> This willingness seems to suggest that many of the outreach proposals are feasible and, as set out in Joint Consumer comments on the DRA Settlements, in the public interest. Instead, the Proposed Decision inexplicably relies on non-binding promises to implement these important protections in the CalWater and Park Settlement Agreements and runs counter to the public interest and is not reasonable in light of the record in the proceeding.<sup>22</sup>

The Proposed Decision states, as a rationale for refusing to extend the education and outreach requirements to Park and CalWater, that the Commission “did not intend to adopt uniform standards.”<sup>23</sup> However, the Proposed Decision misinterprets Joint Consumers’ comments. The requirements cannot be “uniform,” but must be tailored to the utilities’ current capabilities. For instance, of the three utilities only Park has Spanish-speaking customer service representatives available at all times when their customer service line is open. CalWater and Suburban do not. Joint Consumers did not advocate that the Final Decision require Park to comply with the element in the Suburban Settlement wherein it agreed to implement a temporary Spanish-speaking voicemail box for inquiries and information requests. CalWater customers, on the other hand, would benefit from such a requirement. As the Proposed Decision notes, CalWater’s new call center will have Spanish language capability for all of its districts, but the Proposed Decision errs when it ignores the fact that the call center will not be on line in time for the implementation of tiered rates.<sup>24</sup> The request to hold Park and CalWater accountable have nothing to do with creating uniform standards, but instead an attempt to ensure that all utility customers, including low income, limited English speaking and the disabled, have all the information they need to make informed choices about water usage.

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<sup>20</sup> Settlement Agreement Between The Division of Ratepayer Advocates and Park Water Company and on WRAM and Conservation Rate Design Issues, June 15, 2007, Section 11.

<sup>21</sup> Further Testimony of Edward Jackson, July 13, 2007 at p. 3-4; Reply of CalWater to Comments on Amended Settlement, July 6, 2007 at p. 5-7.

<sup>22</sup> See Rule 12.1(d) of the Commission’s Rules of Practice and Procedure.

<sup>23</sup> Proposed Decision at p. 37.

<sup>24</sup> Proposed Decision at p. 37, RT at p.420-421:1-11 (Morse) acknowledging that the call center timing “may not mesh” with the implementation of tiered rates.

As discussed above, the Proposed Decision relies on promises from the utilities to implement consumer education measures. But these promises, in addition to be unenforceable, do not go far enough to protect low income and limited English speaking customers. For example, Joint Consumers do not believe a single bill insert, which each utility agreed to provide, will be sufficient to help these vulnerable customers. The Proposed Decision notes that the current bill insert effort has generated worry and confusion. But yet, neither Park nor CalWater will agree to place notices in newspapers reaching Spanish-speaking populations, or to adopt a unique method of outreach using targeted flyers distributed to only those Spanish-speaking neighborhoods in their serving territory.<sup>25</sup> The Proposed Decision notes that CalWater's service territory is more diverse and spread out than that of Suburban, which would make newspapers and other more traditional forms of notification less effective.<sup>26</sup> Park's service territory is close to and similar to Suburban's serving area. However, the Proposed Decision fails to justify why flyers targeted to those communities with a high Spanish-speaking population would be infeasible and not in the public interest for CalWater or Park, when Suburban found such an outreach method feasible. Perhaps the specific method of outreach could be decided by the utility, at the district level, but there must be a Commission requirement that there be *additional* notice and outreach for Spanish-speaking and disabled customers.

As discussed above, CalWater also refused, in the short term, to accommodate information requests from Spanish speaking customers in districts where in-language customer service is unavailable, preferring to wait for a long-term call center improvement. Joint Consumers and Suburban faced a similar situation and were able to come to an agreement on a low-cost interim measure to address a similar gap before the implementation of a new IVR system.<sup>27</sup> The Proposed Decision merely cites cost as the rationale for not requiring CalWater to implement this option, without discussing the public interest benefits to its Spanish-speaking customers. As Joint Consumers stated in their comments, CalWater must adequately address the needs of all of its Spanish-speaking customers in a timely manner. There will likely be much customer confusion over the new conservation rates once the first new bill is received. It is unacceptable to the Joint Consumers that there will be districts where CalWater's Spanish-

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<sup>25</sup> See Suburban/Joint Consumers Settlement Agreement, Sec. 3.3.5.

<sup>26</sup> Proposed Decision at p.36.

<sup>27</sup> See Suburban/Joint Consumers Settlement Agreement, Sec. 3.3.6.

speaking customers will not be able to call the water company and request additional information in Spanish until the new system is up and running. The Proposed Decision ignores these considerations.

Finally, another weakness in Cal Water's and Park's outreach promises are their vague proposals for "contact" with community-based organizations (CBOs) as means of outreach. In order for these proposals to be effective, more specificity is required. The Suburban Settlement agreement provides more effective language regarding CBO outreach.<sup>28</sup> Cal Water and Park should develop and distribute materials, including translated and accessible materials, explaining the changes to customers' bills and the changes in the way water rates will be calculated and distribute the material to CBOs serving customers in their districts, including those identified by intervenors. The materials and a list of CBOs should be posted on websites and provided to customer service representatives. Requiring specificity for the CBO outreach program is not burdensome, but rather directed towards achieving effective CBO outreach.

By refusing to impose specific, enforceable consumer education and outreach requirements on Park and CalWater, beyond the high level settlement language or vague language in comments, the Proposed Decision violates both §1705 by not making specific findings on a material issue as well as §1757(a)(4) by ignoring the evidence on the record.

#### **IV. THE PROPOSED DECISION ERRS IN ITS FAILURE TO SPECIFY TO CALWATER THE COMPARABLE DATA TO MONITOR THE IMPACT OF ITS PROPOSED CONSERVATION RATE ON RESIDENTIAL CUSTOMERS, ESPECIALLY ITS LOW-INCOME CUSTOMERS.**

The Proposed Decision also fails to require CalWater to submit meaningful and comprehensive data reporting on arrearages and disconnects, while approving Settlements with Joint Consumers and Suburban and Park that provide the necessary data. The Proposed Decision does require some minimal level of data reporting, but is inconsistent in setting forth the types of monitoring data CalWater is to provide in their next general rate case. The discussion

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<sup>28</sup> See Suburban/Joint Consumers Settlement Agreement, Secs. 3.3.8, 3.3.9, 3.3.10, 3.3.11.

concerning CalWater's lack of data collection to monitor the impact of its new conservation rate design states that:

“While we will not require CalWater to undertake major modifications to its billing and data collections system at this time, providing some comparable data would assist us in monitoring the impact of conservation programs on CalWater's customers.”<sup>29</sup>

However, the Proposed Decision only sets forth monitoring data that is far short of comparable to what Suburban and Park will be providing from their Settlements and will not provide the Commission with as good a picture of the effect of CalWater's conservation rates on its residential customers.<sup>30</sup> As discussed earlier in Section III, the Joint Consumers understand the unique characteristics of the different Class A companies. We have been in negotiations with other water companies also facing reporting limitations due to their billing system.

What is critical is that as much useful data reporting as possible start with the rollout of the new conservation rates. One major shortfall in the required information in Order #7 is the failure to require CalWater to consistently breakout data on its LIRA customers. Without breaking out the LIRA customer data, their usage under the new rates, for example, would be hidden within the overall residential usage data. Joint Consumers are particularly concerned that the Commission be able to monitor how CalWater's low-income consumers are responding to the new conservation rate design in the different districts.

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<sup>29</sup> Proposed Decision at p. 38.

<sup>30</sup> **Order #7.** Suburban, Park and CalWater shall provide the following information in their next general rate case: annual per capita changes in consumption by district and customer class following the implementation of the conservation rate design trial programs; surcredits or surcharges by district and customer class implemented in amortizing WRAMs and/or WRAMs/MCBAs; increase or decrease in disconnecting low income program participants for nonpayment by district after adoption of conservation rate designs; increase or decrease in low-income program participation by district after adoption of conservation rate designs; increase or decrease in residential disconnection by district after adoption of conservation rate designs; identification of any weather or supply interruption that might contribute to consumption changes in districts; any other district-specific factor that might contribute to consumption changes.

The monitoring data will also be far more useful if the data are broken out monthly. This helps to identify particular points in time where affordability problems are occurring, for example if disconnections appear to increase in the summertime. Monthly trend data, while only being reported at larger intervals such as annually, help the Commission keep a pulse on whether consumers are experiencing particular problems maintaining continual water service with these new conservation rates or if there are seasonal variations in the success of the new conservation rates.

While disconnection for non-payment captures the picture of consumers at the extreme point of an affordability problem, the Commission needs access to more sensitive arrearage data to fully understand emerging payment and affordability problems for consumers. Monthly values for the number of general residential and LIRA accounts with balances due by over 30 days, and the dollar amount of such accounts, are needed to provide a far more accurate picture of whether the water bills under the new CalWater conservation rates are unaffordable or becoming unaffordable.<sup>31</sup> While the PD assumes the CalWater's billing system is not capable of these types of monthly residential arrearage and disconnection data sought by the Joint Consumers throughout the Phase 1A proceeding, Joint Consumers' believe there is additional data that CalWater could provide with a minimal resource investment. CalWater has argued that because it has a large number of customers in twenty-four (24) separate ratemaking districts that gathering and reporting the types of monitoring data sought by the Joint Consumers is far more complicated and costly.<sup>32</sup> The Joint Consumers understand these limitations and believe that it is not an all or nothing scenario, especially since the more refined data reporting can be phased in with future GRCs or certainly during planned upgrades or replacements to its current billing

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<sup>31</sup> Proposed Decision at p.38.

<sup>32</sup> Reply Brief of California Water Service Company – Phase 1A (U-60-W) at p.12.

system. In the meantime, however, it is because CalWater serves so many customers that we urge the Commission to monitor, to the best it is able, the types of usage and affordability data points agreed to by the Joint Consumers and the other Class-A water companies. We note that Cal Water had testified that it would be willing to provide certain data points regarding usage and number of customers<sup>33</sup> Joint Consumers urge that Order #7 be amended as set forth in Appendix A attached to these comments, to incorporate CalWater's technical limitations, while still ensuring that the Commission will have sufficient data at its disposal to judge the impact of tiered rates.

## **V. CONCLUSION**

Joint Consumers recommend that the Commission ensure that Suburban's LIRA promotes affordability through a fixed percentage discount off the entire bill for eligible low-income households per TURN's recommendation. Joint Consumers also urge that the Proposed Decision be revised to require specific notice, outreach and education measures for CalWater and Park and to require more comparable and specific data be gathered and reported by CalWater per our recommendations.

Dated: February 4, 2008

Respectfully submitted,

/S/ Christine Mailloux

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Christine Mailloux, Staff Attorney  
Marcel Hawiger, Staff Attorney  
THE UTILITY REFORM  
NETWORK  
711 Van Ness Avenue, Suite 350  
San Francisco, CA 94102  
Telephone: (415) 929-8876, ext.  
353  
E-mail: [cmailloux@turn.org](mailto:cmailloux@turn.org)

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<sup>33</sup>Reply Brief of California Water Service Company – Phase 1A (U-60-W) at p.11.

## APPENDIX A

### JOINT CONSUMERS' PROPOSED CHANGES TO FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS

#### FINDINGS OF FACT

##### ADD NEW FINDING OF FACT #23 (renumber accordingly)

23. The Water Action Plan has as one of its goal to keep water rates affordable for low income customers.

##### ADD NEW FINDING OF FACT #24 (renumber accordingly)

24. Household size is a significant input to water consumption trends and low income households are likely to be larger than average with higher water consumption

##### ADD NEW FINDING OF FACT #25 (renumber accordingly)

**25. Water utility customers have contacted the Commission with concerns about or opposition to the rate design settlements.**

##### ADD NEW FINDING OF FACT #26 (renumber accordingly)

26. It would be prudent for water utilities to coordinate its customer education and outreach efforts with other utilities to provide comparable information to its customers.

##### ADD A NEW FINDING OF FACT #27 (renumber accordingly)

26. Comparable data tracking and reporting among water utilities on usage, arrearages and disconnections would assist the Commission in monitoring the impact of conservation programs on customers.

##### ADD A NEW FINDING OF FACT #28 (renumber accordingly)

27. CalWater plans to improve its call center capabilities to add Spanish language service representatives, but such improvements will not be available when the tiered rates go into affect.

#### CONCLUSIONS OF LAW

##### ADD NEW CONCLUSION OF LAW #5 (renumber accordingly)

5. Public Utilities Code §739.8 references two separate programmatic goals: 1) rate reduction for low income customers; 2) water conservation targeted at low income customers through incentives and capabilities to conserve water.

**REVISE CONCLUSION OF LAW #6**

6. The Suburban LIRA settlement offering only a flat discount on the service charge does not support the affordability goals and objectives as stated by the Legislature or the WAP. program advances the WAP's conservation objectives. Instead, a percentage off the total bill would promote the objective of rate relief as put forth in Public Utilities Code §739.8(b).

**ORDERING PARAGRAPHS**

**REVISE ORDERING PARAGRAPH #1**

1. The following settlement agreements are approved and adopted:

- April 24, 2007 Suburban Water Systems (Suburban)/Division of Ratepayer Advocates (DRA) on conservation rate design;

~~• April 24, 2007 Suburban/DRA on low income ratepayer assistance program;~~

- June 15, 2007 Park Water Company (Park)/DRA on conservation rate design, water revenue adjustment mechanism (WRAM), and modified cost balancing account (MCBA);

- July 30, 2007 Park/DRA on conservation memorandum account;

- August 10, 2007 Suburban/The Utility Reform Network , the National Consumer Law Center, Disability Rights Advocates, and Latino Issues Forum (Joint Consumers) on customer outreach and education and data collection and reporting;

- August 10, 2007 Park/Joint Consumers/Consumer Federation of California on data collection, monitoring, and reporting; and

- October 19, 2007 Suburban/DRA on return on equity adjustment.

**ADD A NEW ORDERING PARAGRAPH #3 (renumber accordingly)**

3. Suburban and DRA are ordered to revise their settlement on the low income ratepayer assistance program to incorporate a total bill discount of 15% for qualifying customers.

**ADD A NEW ORDERING PARAGRAPH #7 (renumber accordingly)**



7. CalWater must file an advice letter in 15 days after the adoption of this decision outlining its consumer education and outreach program to be consistent with Section 3 of the August 10, 2007 Suburban/Joint Consumers Settlement Agreement but for Section 3.4.

**ADD NEW ORDERING PARAGRAPH #8 (renumber accordingly)**

8. Park must file an advice letter in 15 days after the adoption of this decision outlining its consumer education and outreach program to be consistent with Section 3 of the August 10, 2007 Suburban/Joint Consumers Settlement Agreement, but for Sections 3.3.6 and 3.4 of that settlement.

**REVISE ORDERING PARAGRAPH #7:**

7. Suburban, Park and CalWater shall provide the following information in their next general rate case:

- Annual number of customers in each class
- Monthly number of residential customers accounts
- Monthly number of LIRA accounts
- Annual-Monthly or bimonthly (depending upon the billing cycle) per capita changes in consumption, by district, separated by block/Tier and meter size and customer class (including disaggregated treatment of LIRA customers), following the implementation of the conservation rate design trial programs
- Surcredits or surcharges by district and customer class implemented in amortizing WRAMs and/or WRAMs/MCBAs;
- Increase or decrease in disconnecting low income program participants for nonpayment by district after adoption of conservation rate designs; increase or decrease in low-income program participation by district after adoption of conservation rate designs as shown through the following data:
  - Monthly number of LIRA customer disconnections due to non-payment [note if the billing systems cannot, with reasonable effort, report this data, then monthly 48-hour disconnection notices to LIRA customers as a proxy may be used in conjunction with the monthly reporting of reconnections of LIRA customers]
- Increase or decrease in low income program participation by district after adoption of conservation rate designs;
- Increase or decrease in residential disconnection due to non-payment by district after adoption of conservation rate designs as shown through the following data:

- Monthly number of residential disconnections due to non-payment [note if the billing systems cannot, with reasonable effort, report this data, then monthly 48-hour disconnection notices as a proxy may be used (in conjunction with the monthly reporting of reconnections)]
- For those companies who have agreed to provide this data in their data collection settlements with the Joint Consumers and for CalWater, monthly total dollar amount of residential arrearages (with LIRA broken out) [note that if the billing systems cannot, with reasonable effort, report this data, then monthly dollar amount of total uncollectables by district could be a proxy].
- Identification of any weather or supply interruption that might contribute to consumption changes in districts
- Any other district-specific factor that might contribute to consumption changes

~~Suburban, Park, and CalWater shall provide the following information in their next general rate case: annual per capita changes in consumption by district and customer class following the implementation of the conservation rate design trial programs; surcredits or surcharges by district and customer class implemented in amortizing WRAMs and/or WRAMs/MCBAs; increase or decrease in disconnecting low-income program participants for nonpayment by district after adoption of conservation rate designs; increase or decrease in low-income program participation by district after adoption of conservation rate designs; increase or decrease in residential disconnection by district after adoption of conservation rate designs; identification of any weather or supply interruption that might contribute to consumption changes in districts; and any other district-specific factor that might contribute to consumption changes.~~

# CERTIFICATE OF SERVICE

I, Christine Mailloux, declare:

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is The Utility Reform Network, 711 Van Ness Avenue, Suite 350, San Francisco, 94102.

On February 5, 2008 I served the following document:

**OPENING COMMENTS OF THE UTILITY REFORM NETWORK, THE  
LATINO ISSUES FORUM, THE NATIONAL CONSUMER LAW CENTER AND THE  
DISABILITY RIGHTS ADVOCATES ON THE PROPOSED DECISION OF  
ADMINISTRATIVE LAW JUDGE GRAU**

on all eligible parties on the attached lists to **I.07-01-022, A.06-09-006, A.06-10-026, A.06-11-009, A.06-11-010 and A.07-03-019**, by sending said document by electronic mail to each of the parties via electronic mail, as reflected on the attached Service List.

Executed this February 5, 2008, at San Francisco, California.

/S/ Christine Mailloux

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Christine Mailloux

**Service List for I.07-01-022, A.06-09-006, A.06-10-026, A.06-11-009, A.06-11-010 and**

**A.07-03-019**

ataketa@fulbright.com	bdp@cpuc.ca.gov
bill@jbsenergy.com	dsb@cpuc.ca.gov
bloehr@greatoakswater.com	flc@cpuc.ca.gov
bobkelly@bobkelly.com	jcp@cpuc.ca.gov
broeder@greatoakswater.com	jlg@cpuc.ca.gov
charak@nclc.org	jws@cpuc.ca.gov
charles.forst@360.net	llk@cpuc.ca.gov
chris@cuwcc.org	lwa@cpuc.ca.gov
cmailloux@turn.org	mlm@cpuc.ca.gov
dadellosa@sgvwater.com	mpo@cpuc.ca.gov
danielle.burt@bingham.com	ndw@cpuc.ca.gov
darlene.clark@amwater.com	phh@cpuc.ca.gov
debbie@ejcw.org	smw@cpuc.ca.gov
debershoff@fulbright.com	tfo@cpuc.ca.gov
demorse@omsoft.com	trh@cpuc.ca.gov
dietrichlaw2@earthlink.net	
doug@parkwater.com	
dstephen@amwater.com	
ed@parkwater.com	
enriqueg@lif.org	
fyanney@fulbright.com	
jeff@jbsenergy.com	
jguzman@nossaman.com	
jhawks_cwa@comcast.net	
jlkiddoo@swidlaw.com	
john.greive@lightyear.net	
katie@cuwcc.org	
kendall.macVey@bbklaw.com	
kswitzer@gswater.com	
Ldolqueist@steefel.com	
leigh@parkwater.com	
lex@consumercal.org	
lmcghee@calwater.com	
luhintz2@verizon.net	
lweiss@steefel.com	
marcel@turn.org	
mcegelski@firstcomm.com	
mmattes@nossaman.com	
mvander@pcl.org	
nancitran@gswater.com	
nsuetake@turn.org	
owein@nclcdc.org	
palle_jensen@sjwater.com	
pschmiege@schmiegelaw.com	
pucservice@dralegal.org	
rdiprimio@valencia.com	
rkmoore@gswater.com	
sferraro@calwater.com	
sleeper@steefel.com	
tguster@greatoakswater.com	
tjryan@sgvwater.com	
tkim@rwglaw.com	
tsmegal@calwater.com	